

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3973/2013
with
O.A./100/260/2014
M.A./100/242/2014
O.A./100/3974/2013
M.A./100/3019/2013
O.A./100/3975/2013
O.A./100/3976/2013

New Delhi, this the 31st day of May, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

O.A./100/3973/2013

1. Ishwar Singh Nagar (Age 55 years)
S/o Shri Munshi Ram
Working as Mali (Group D Post)
Horticulture Department of CPWD
Working in Supreme Court Compound,
New Delhi
2. Devinder (Age 52 years)
S/o Shri Chedi Singh
Working as Mali (Group D Post)
Horticulture Department of CPWD
Working in Supreme Court Compound,
New Delhi
3. Banwari Lal (Age 56 years)
S/o Shri Bansi Lal
Working as Mali (Group D Post)
Horticulture Department of CPWD
Working in Supreme Court Compound,
New Delhi
4. Thakur (Age 57 years)
S/o Shri Bhabuti
Working as Mali (Group D Post)
Horticulture Department of CPWD
Working in Supreme Court Compound,
New Delhi
5. Ramjas (Age 51 years)
S/o Shri Ram Kumar

Working as Mali (Group D Post)
 Horticulture Department of CPWD
 Working in Supreme Court Compound,
 New Delhi

6. Narayan Singh (Age 53 years)
 S/o Shri Brahmdev Singh
 Working as Mali (Group D Post)
 Horticulture Department of CPWD
 Working in Supreme Court Compound,
 New Delhi
7. Chander Pal (Age 55 years)
 S/o Shri Khiman Singh
 Working as Mali (Group D Post)
 Horticulture Department of CPWD
 Working in Supreme Court Compound,
 New Delhi
8. Jagram (Age 54 years)
 S/o Shri Ram Chander
 Working as Mali (Group D Post)
 Horticulture Department of CPWD
 Working in Supreme Court Compound,
 New Delhi
9. Dina Nath (Age 53 years)
 S/o Shri Vindhya Chal Singh
 Working as Mali (Group D Post)
 Horticulture Department of CPWD
 Working in Supreme Court Compound,
 New Delhi

....Applicants

(Through Sh.Yogesh Sharma and Sh.Satpal Singh, Advocates)

O.A./100/260/2014

1. Dinesh (age 52 years)
 S/o Shri Sat Narayan Singh
 Working as Mali (Group D post)
 Horticulture Department of CPWD
 Maya Puri, New Delhi
2. Lakshmi Chand (age 52 years)
 S/o Shri Chunni Lal
 Working as Mali (Group D post)
 Horticulture Department of CPWD
 Maya Puri, New Delhi
3. Nobat Singh (age 48 years)
 S/o Shri Manohar Singh
 Working as Mali (Group D post)
 Horticulture Department of CPWD

Maya Puri, New Delhi

4. Bhupan Paswan (age 49 years)
S/o Shri Ram Bachan Paswan
Working as Mali (Group D post)
Horticulture Department of CPWD
Maya Puri, New Delhi
5. Raghubar (age 50 years)
S/o Shri Kashi Prasad
Working as Mali (Group D post)
Horticulture Department of CPWD
Teen Murti House, New Delhi
6. Dina Nath (age 55 years)
S/o Shri Vindhya Chal
Working as Mali (Group D post)
Horticulture Department of CPWD
Maya Puri, New Delhi
7. Adalat (age 51 years)
S/o Shri Ram Lal
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
8. Bhagwan Deen (age 55 years)
S/o Shri Chunni Lal
Working as Mali (Group D post)
Horticulture Department of CPWD
Kaka Nagar, New Delhi
9. Sohan Pal (age 51 years)
S/o Shri Leela Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
10. Jaddu Mehto (age 55 years)
S/o Shri Ramdel Mehto
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
11. Rajbir Singh (age 48 years)
S/o Shri Prem Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
At RK Puram, New Delhi

12. Ajit Singh (age 48 years)
S/o Shri Kapoor Chand
Working as Mali (Group D post)
Horticulture Department of CPWD
At Jharoda Kala, DelhiApplicants

(Through Sh.Yogesh Sharma and Sh.Satpal Singh, Advocates)

O.A.3974/2013

1. Dhanpat (age 54 years)
S/o Shri Prem Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
2. Padharath (age 52 years)
S/o ShriRam Lal
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
3. Shatrughn (age 50 years)
S/o Shri Ishwar Bhagat
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
4. Dal Chand (age 52 years)
S/o Shri Puran Chand
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
5. Rami Singh (age 52 years)
S/o Shri Likhi Chand
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
6. Jai Karan (age 54 years)
S/o Shri Battan Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi

(Through Sh.Yogesh Sharma and Sh.Satpal Singh, Advocates)

O.A.3975/2013

1. Nand Kishore (age 56 years)
S/o Shri Ram Sewak
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
2. Duli Chand (age 53 years)
S/o Shri Ram Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
3. Shiv Ram (age 54 years)
S/o Shri Ramfer
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
4. ChhoteLal (age 54 years)
S/o Shri Nageshwar
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
5. Munna Shah (age 53 years)
S/o Shri Ram Vilas Shah
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
6. Kalu Ram (age 55 years)
S/o Shri Bhud Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi

....Applicants

(Through Sh.Yogesh Sharma and Sh.Satpal Singh, Advocates)

O.A.100/3976/2013

1. Raghu Nath Singh (age 52 years)

S/o Shri Natha Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi

2. Mishri Lal (age 57 years)
S/o Shri Chuli Ray
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
3. Jaswant Singh (age 54 years)
S/o Shri Dhramvir Singh
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
4. Jugdish (age 55 years)
S/o Shri J.P. Sharma
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
5. Firanti Ran (age 50 years)
S/o Shri Bhulai Ram
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
6. Mohmmad Mohim (age 53 years)
S/o Shri Mohd. Shan
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi
7. Fadu Lal (age 51 years)
S/o Shri Badri Prasad
Working as Mali (Group D post)
Horticulture Department of CPWD
Race Course Nursery, South Avenue
Kusak Road, New Delhi

....Applicants

(Through Sh.Yogesh Sharma and Sh.Satpal Singh, Advocates)

Versus

1. Union of India
Through Secretary
Urban Development of India
Nirman Bhawan, Delhi
2. Director of CPWD,
Urban Development of India
Office at Nirman Bhawan, New Delhi
3. Dy. Director
CPWD, Office at ITO, Delhi ...Respondents

(Through Shri Ashok Kumar, Advocate in OA 3974/2013,
OA 3975/2013 and OA 3976/2013
Shri Deepak Bhardwaj, Advocate in OA 3973/2013
and OA 260/2014
Ms. Aishwarya Dobhal for Shri Hilal Haider,
Advocate in OA 3973/2013)

ORDER (Oral)Justice L. Narasimha Reddy, Chairman

In this batch of OAs, the applicants claim the relief in the form of a direction to the respondents to count 50% of the service rendered by them on muster roll/temporary basis for the purpose of extending the financial benefits and, in particular, 2nd financial upgradation under ACP Scheme. They also claim similar facility in respect of the benefit of MACP Scheme contained in OM dated 15.05.2009, on completion of 10, 20 and 30 years of service. Prayer is also made for a direction to the respondents to review the service benefits already extended to them.

2. The applicants contend that they served the department on muster roll basis for several years and, at a later point of time, their services are regularized. According to them, they are entitled to count their service rendered on muster roll basis for the purpose of extending the benefit of ACP/MACP.

3. Respondents filed counter affidavits in the respective OAs. It is stated that regular service alone is taken into account for the purpose of extending the benefit of ACP/MACP and that the same has been provided to the applicants. It is also stated that inclusion of portion of the service rendered on muster roll/temporary engagement for the purpose of ACP/MACP, does not arise.

4. We heard Shri Yogesh Sharma, for the applicants and Shri Ashok Kumar, Shri Deepak Bhardwaj and Ms. Aishwarya Dobhal for Shri Hilal Haider, for the respondents.

5. Prayer in the OA reads:

- A. direct the Respondent Deptt. to consider the 50% length of service of the applicants rendered on muster roll/ temporary period for the eligibilities of extending financial benefits and upgradation for the 2nd ACP Scheme and all consequential relief including the benefits of 2nd financial upgradation may be released in favour of the applicants.
- B. direct the Respondent Deptt. to consider the applicants for getting the benefits of MACP scheme dt. 15.5.2009 on completion of 10, 20 and 30 years of service and consequently all benefits may kindly be released in favour of applicants after considering the entire length of service including the muster roll/temporary service period and the correct pay grade may kindly be given on the length of the service under MACP Scheme.

C. direct the Res. Deptt. to consider the applicants for reviewing the benefits of 1st ACP Scheme being extended to the applicants in the year of 2001 w.e.f. 9.8.1999 and as such the pay scale of Rs.3050-4590, may kindly be reviewed and the new pay scale of Rs.4000-6000 may kindly be directed to be given to the applicants in view of the replacement of the pay scale of Rs.3050-4590 w.e.f. 1.1.1981, being given to the Sr. Mali on the completion of 8 years of the Service on the basis of Selection Grade.”

6. From this, it becomes clear that the applicants wanted the respondents to count the service rendered on muster roll/temporary basis in the context of extending the benefit of ACP/MACP. The Schemes are clear in their purport and only regular service can be counted for the purpose.

7. During the course of arguments, the learned counsel for the applicants stated that the applicants were, in fact, engaged on work charge basis and as per the instructions issued by the DoP&T, service rendered on that basis is also liable to be counted. When the prayer in the OAs is in one context, we just cannot take a different plea, into account. In case, the applicants have rendered service on work charge basis and law provides for that to be counted for the purpose of ACP/MACP, claim on that basis needs to be raised separately.

8. The OAs are accordingly dismissed. However, the applicants are permitted to file representations in case –

(a) They have been engaged on work charge basis; and

(b) There exists any provision of law that permits the counting of such service for the purpose of ACP/MACP.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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